

**ENVIRONMENTAL PROTECTION AGENCY****[EPA-R09-OAR-2022-0401; FRL-9786-01-R9]****Clean Air Act Grant; Santa Barbara County Air Pollution Control District; Opportunity for Public Hearing****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed action; determination with request for comments and notice of opportunity for public hearing.

**SUMMARY:** The EPA is proposing to determine that the reduction in expenditures of non-Federal funds for the Santa Barbara County Air Pollution Control District (SBCAPCD) in support of its continuing air program under section 105 of the Clean Air Act (CAA) for the calendar year 2021 is a result of non-selective reductions in expenditures. This determination, when final, will permit the SBCAPCD to receive grant funding for fiscal year (FY) 2022 from the EPA, under section 105 of the CAA.

**DATES:** Comments and/or requests for a public hearing must be received by the EPA at the address stated below on or before **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0401 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Please do not submit any information you consider to be Proprietary Business Information (PBI) or Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents

located outside of the primary submission (e.g., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about PBI/CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Angela Latigue, EPA Region IX, Grants & Program Integration Office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105; phone at (415) 947-4170 or email address at [latigue.angela@epa.gov](mailto:latigue.angela@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 105 of the CAA provides grant funding to air pollution control agencies for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. In accordance with 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. Air pollution control agencies are required to provide a 40% cost share (also referred to as a match requirement) to receive CAA Section 105 grants. Program activities relevant to the match consist of both recurring and non-recurring (unique, one-time only) expenses. In addition, section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), requires grant recipients to meet a maintenance of effort (MOE).

The MOE provision requires that an eligible agency spend at least the same dollar level of funds as it did in the previous grant year but only for the costs of recurring activities. Specifically, section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1), provides that “No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were

for such programs during the preceding fiscal year.” However, pursuant to CAA section 105(c)(2), 42 U.S.C. 7405(c)(2), the EPA may still award a grant to an agency not meeting the requirements of section 105(c)(1), “...if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government.” These statutory requirements are repeated in the EPA’s implementing regulations at 40 CFR 35.140-35.148. The EPA issued a memorandum dated September 30, 2011, entitled “*Updated Information for Determining a Non-Selective Reduction*” with additional guidance to recipients on what constitutes a nonselective reduction. In consideration of legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each executive branch agency needs to be reduced in equal proportion. However, it must be clear to the EPA, from the weight of evidence, that a recipient’s CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 grant recipient must submit a final federal financial report no later than 120 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the documentation necessary to enable the EPA to make a determination that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction’s executive branch agencies and the recipient’s air program. The recipient needs to identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in key areas is needed including budget data specific to the recipient’s air program, and comparative budget data between the recipient’s air program, the agency containing the air program, and the other executive branch agencies. The EPA may also request information from the recipient about how

impacts on its program operations will affect its ability to meet its CAA obligations and requirements; and documentation which explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In fiscal year (FY) 2021, the EPA awarded the SBCAPCD \$527,490, which represented approximately 7% of the SBCAPCD budget. In FY2022, the EPA intends to award the SBCAPCD approximately \$531,494, which represents approximately 7% of the SBCAPCD budget.

SBCAPCD's final federal financial report for FY2020 indicated that SBCAPCD's MOE level was \$7,890,365. The MOE level for FY2021 was reduced to \$7,790,365 after formal approval of a non-selective reduction. SBCAPCD's final federal financial report for FY2021 indicates that SBCAPCD's MOE level is at \$7,318,050. This level of expenditure is not sufficient to meet the MOE requirements for FY2021 under section 105 because it is not equal to or greater than the MOE for the previous fiscal year.

In order for the SBCAPCD to be eligible to receive its FY2022 CAA section 105 grant, the EPA must make a determination (after notice and an opportunity for a public hearing) that the reduction in expenditures from 2021 to 2022 is attributable to a non-selective reduction in recurrent expenditures in the programs of the SBCAPCD.

The SBCAPCD is a single-purpose air pollution control agency. It is the unit of government for CAA section 105(c)(2) purposes. The main factor for SBCAPCD's MOE shortfall in FY2021 continues to stem from weakened economic conditions caused by the COVID-19 pandemic that resulted in decreases in services and supplies. This budget category was decreased approximately \$510,000 from FY19-20 to FY20-21, which is approximately an 11.5% decrease to this recurring expenditure.

The EPA proposes to find that the request for a reset of SBCAPCD's MOE meets the requirements for a non-selective reduction under CAA section 105. The SBCAPCD's MOE

reduction resulted from a loss of revenues due to a significant cut back on expenditures caused by the COVID-19 pandemic. Increases in pass-through monies from the California Air Resources Board for multiple state grant projects also impacted the SBCAPCD's overall operating budget. However, such pass-through monies are not considered recurrent expenditures and are not included in calculating MOE.

The EPA proposes that the MOE for SBCAPCD's FY2021 CAA section 105 grant be reduced to \$6,700,000 to address the non-selective reduction of expenditures discussed above.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the CAA. All written comments received by **[Insert date 30 days after the date of publication in the *Federal Register*]** on this proposal will be considered. The EPA will conduct a public hearing on this proposal only if a written request for such is received by the EPA by **[Insert date 30 days after the date of publication in the *Federal Register*]**. If no written request for a hearing is received or if the EPA determines that the issues raised are insubstantial, the EPA will proceed to the final action to award the fiscal year 2022 grant to the SBCAPCD.

Dated: July 20, 2022.

**Elizabeth Adams,**  
*Director,*  
*Air and Radiation Division, Region IX.*

[FR Doc. 2022-15959 Filed: 7/25/2022 8:45 am; Publication Date: 7/26/2022]